Charltons - China News Alerts Newsletter - 07 May 2008

[online version](http://www.charltonslaw.com/china-news-alert-issue-239/)

# China News Alert Issue 239

## Capital Markets

### Fund managers get green light for Hong Kong

China's securities regulator has approved mainland fund management companies to set up branches in Hong Kong, as part of efforts to further fulfill the Closer Economic Partnership Arrangements between the special administrative region and the mainland.

Mainland fund management companies can now submit applications to the China Securities Regulatory Commission (CSRC) and receive a response within 60 days, the regulator said in a recent statement.

Fang Zheng, chairman of the Hong Kong Securities and Futures Commission, hailed the move as a "milestone", as it will be the first time mainland fund management companies can familiarise themselves with international investment practice and regulations.

"After years of development, mainland fund management companies now want to know more about the international market, and Hong Kong is the perfect place to start," said Dong Chen, a senior analyst at CITIC China Securities.

Currently, there are more than 60 fund management companies on the mainland, with assets under management reaching 3.5 trillion yuan. By the end of 2007, 22 of these companies had net assets exceeding 200 million yuan, statistics from the CSRC showed.

"Some mainland fund management companies have contacted us, showing an interest in setting up branches in Hong Kong," the CSRC said in the statement.

As Hong Kong is also seen as a major investment destination and a talent pool for QDII products, the new branches will help mainland fund management companies develop their QDII business, the regulator added.

However, industry analysts also warned of the potential risks for mainland fund companies. "It's wise to test the new measures on a small scale and increase pilot phases step by step. Being rooted in the mainland, companies should still focus on business at home," CITIC China Securities' Dong said.

"We don't have a plan to submit an application in the short term," a fund manager with China Merchants Securities said, adding that they are still waiting for detailed regulations from the CSRC to clarify which kind of branches can run in Hong Kong.

Wang Ciming, the executive director of the Hong Kong Investment Funds Association, said the entry of mainland fund companies will not pose much competition to local fund managers. On the contrary, the fund management market in Hong Kong may become more comprehensive and diversified, he said.

[Source: People's Daily Online](http://english.people.com.cn/90001/90776/90884/6404627.html) ([see archive](Fund_managers_get_green_light_for_HK.pdf))

### China to curb over-speculation in IPO sales

The China Securities Regulatory Commission (CSRC) has pledged to curb excessive speculation in the share sales of initial public offerings (IPOs).

CSRC chairman, Shang Fulin, said that further steps would be taken to improve the IPO price bidding mechanism and to proportion IPO issues to on-line and off-line subscriptions.

The current rules on IPO share sales have long been criticised, as institutional investors can order both on-line and off-line, while individuals are limited to on-line.

IPO share sales are often hundreds of times over-subscribed in China, as investors rush to benefit from certain gains on their stock exchange debut.

The CSRC will also optimise the structure of the capital market by allowing more listings of local blue chips and high growth enterprises, Shang told an internal meeting recently.

He vowed to simplify the reviewing process for corporate bond issue applications and allow more mutual funds to invest in the bond market.

The CSRC will also allow insurance companies and commercial banks to make direct investment in the corporate bond market, Shang added.

[Source: China Securities Journal](http://www.cs.com.cn/english/markets/200805/t20080505_1447938.html) ([see archive](China_to_curb_over-speculation_in_IPO_sales.pdf))

### Banks' capital adequacy ratio must exceed 10% in overseas acquisition

Chinese commercial banks are required to have a capital adequacy ratio (CAR) of more than 10 per cent when they pursue acquisitions of domestic or overseas non-banking financial institutions, according to a draft rule recently released to solicit opinions.

"The rule deals mainly with the regulation of overseas acquisitions, with only a small section dealing with domestic acquisitions," said an insider. "This is mainly due to previous regulatory restrictions."

He added that China's Law on Commercial Banks, revised in 2003, prohibited commercial banks from taking up trust investment and securities business, investing in real estate not for their own use or non-banking financial institutes and enterprises, unless otherwise stipulated.

Chen Yongguang, a senior financial analyst with Arthur D. Little, a global management firm, said that the rule is a big step forward. "It will help the banking industry achieve business goals through overseas acquisitions."

More importantly, the draft rule sets a threshold for banks wanting to make acquisitions, which can help prevent risks associated with blind acquisitions by Chinese banks, Chen said.

According to their annual reports for 2007, only 3 of the 14 listed banks have a CAR of below 10 per cent. All other banks qualify for overseas acquisitions.

"Though the US subprime crisis has created a good opportunity for Chinese banks in overseas acquisitions," said Chen, "it is still essential for these banks to perform due diligence and become familiar with and adapt to foreign regulatory environments and legal criteria."

Currently, Chinese commercial banks' overseas acquisitions mainly target banks. The draft rule is expected to boost the acquisition of non-bank financial institutions.

In February this year, the Industrial and Commercial Bank of China completed the purchase of a 20 per cent stake in Standard Bank Group Limited, Africa's largest bank.

China Minsheng Banking Corporaton purchased a 9.9 per cent stake in US-based UCBH Holdings, the biggest bank serving the Chinese community in the United States.

China Construction Bank, Bank of China, and Bank of Communications have all expressed intent to acquire overseas assets.

[Source: China Daily](http://www.chinadaily.com.cn/bizchina/2008-05/05/content_6664033.htm) ([see archive](Banks_CAR_must_exceed_10_in_overseas_acquisition.pdf))

### Supervisory information to be disclosed within 20 days

The China Securities Regulatory Commission (CSRC) will disclose information gathered in the performance review of the securities and futures market within 20 working days.

This measure has been adopted to improve the transparency of the CSRC's supervisory practices.

According to the 'Measures for the Disclosure of the Information of Securities and Futures Supervision and Administration (Trial Implementation)' effective on 1st May, information to be voluntarily disclosed by the CSRC includes:

* securities and futures rules;
* normative documents;
* market development planning and progress reports;
* statistical information included in the national statistic index system;
* administrative licensing items and results of verification and approval;
* results of the approval and registration of non-administrative licensing items; and
* market entry prohibition and decisions on administrative penalties.

In addition, citizens, legal persons and organisations may apply to obtain related supervisory information from the CSRC based on their special needs for living, production and scientific research.

However, information must be directly related to the applicants' interests. Information involving commercial secrets and personal data of a third party can only be disclosed with the approval of the third party.

[Source: Lexis Nexis](http://hk.lexiscn.com/latest_message.php?id=3722) ([see archive](Supervision_Information_to_be_Disclosed_within_20_Days.pdf))

### Hint of new measures to prevent overheating

China's economy is at risk of overheating and policy makers may raise interest rates and introduce other measures to stop cash flooding the financial system, officials said.

"We will combat demand and prevent this rapid economic growth from turning into overheating," Vice Finance Minister, Li Yong, told delegates at the Asian Development Bank's annual meeting in Madrid.

Consumer prices rose 8.3 per cent in March, close to an 11-year high, as food prices soared and the trade surplus pumped US$13 billion into the financial system.

China is trying to cool growth without triggering a slump in the world's fastest-growing major economy as export demand wanes.

"There is the possibility to use interest rates to restrain inflation, central bank Governor, Zhou Xiaochuan, said in Basel, Switzerland, adding that policy makers have a range of options.

China's economy, the world's fourth-largest, expanded by 10.6 per cent in the first quarter of 2008, down from 11.2 per cent in the previous three months. Consumer prices climbed 8.7 per cent in February, the fastest growth rate since 1996.

"Growth has started to slow, so why use additional cooling measures and risk stalling the economy?" asked Leslie Phang, Singapore-based head of private clients at Schroders Plc, which manages US$275 billion.

Overseas investors attracted by the yuan's gains and rising interest rates have channeled money into China, adding to the inflow from trade and foreign direct investment. The benchmark one-year lending rate is at a nine-year high of 7.47 per cent after six increases in 2007.

Rate cuts by the United States Federal Reserve has created a "new situation" for China, attracting short-term investors, Zhou said.

He added that the Chinese government is monitoring the inflow of so-called hot money.

"China is a very large economy, usually a small amount of abnormal capital inflow doesn't have a serious impact on monetary policy," Zhou said.

China will do a lot more to "sterilise" inflow, Li said.

[Source: Shanghai Daily](http://www.shanghaidaily.com/sp/article/2008/200805/20080506/article_358445.htm) ([see archive](Hint_of_new_measures_to_prevent_overheating.pdf))

## Corporate & Commercial

### Asian Development Bank supports energy-efficient projects in China

The Asian Development Bank (ADB) is extending over US$114 million in a partial credit guarantee program to support energy-efficient projects in China, the Manila-based bank said.

The pilot program, which is the ADB's first credit guarantee to mobilise commercial financing in China, will initially target energy efficiency projects for buildings in southern and eastern China, the more industrialised part of the country.

"It is the only project of this scale in energy efficiency in China and the first one of any ADB member," said Seethapathy Chander, the deputy director general of ADB's Private Sector Operations Department.

The program will support the retrofitting of existing buildings, typically leading to energy savings of 20 to 40 per cent. The program will also support energy efficient "green buildings."

Given China's rapid urbanisation, energy efficient buildings will have long-lasting and large cumulative effects in reducing energy use and greenhouse gas emissions, the ADB said in a statement released on the sidelines of the bank's annual meeting.

Chander said the ADB chose China, one of the bank's 67 members, because the country is becoming one of the largest energy consumers in the world.

"Energy demand in China is growing rapidly to support its economic growth. This program will enhance access to domestic finance for a large number of energy end users in China and will result in more efficient energy use in existing and new buildings," the ADB said.

Standard Chartered Bank has been selected as the partner financial institution in the program, the first commercial bank to cooperate with the ADB on the Energy Efficiency Multi-Project Financing Program, which was initiated by the ADB to expand its operations in energy efficiency and clean energy to at least US$1 billion a year.

[Source: Ministry of Commerce of the People's Republic of China](http://english.mofcom.gov.cn/aarticle/newsrelease/significantnews/200805/20080505512049.html) (Link no longer active)

### Exporters confront rising environmental costs

Chinese manufacturers have seen their costs for environmental protection rise since the government raised standards over the past year.

Companies that were identified as violating environmental laws were barred from the Canton Fair, China's Import and Export Fair, said fair spokesman, Xu Bing.

One such company was Jilin Fudun Timber Company Limited, which was placed on a blacklist by environmental regulators last year.

The Canton Fair is the most important channel for Chinese exporters to expand overseas, so a ban can mean big losses.

China has conducted special campaigns against polluting companies since last year.

As well as loosing export opportunities, blacklisted firms find it difficult to get loans. The State Environmental Protection Administration, now the Ministry of Environmental Protection, along with the central bank and the Banking Regulatory Commission, jointly issued a "green loan" policy in July that banned loans to blacklisted companies.

In addition, the government has stated that the worst violators will face shutdowns of up to three years.

A senior official with the National Development and Reform Commission, the country's top economic planner, said that "all these measures made it clear that companies must establish pollution-treatment facilities. Merely paying fines for damaging the environment is not enough."

As supervision has strengthened, some companies have had to shut down. Fuan Textile Mill, a Hong Kong-listed company, shut down last March as it was found to be discharging wastewater directly into underground pipes. The company was fined 11.55 million yuan (US$1.65 million).

During the spring session of this year's Canton Fair, the Minister of Commerce, Chen Deming, said China would maintain strict controls over polluting and energy-wasting companies, despite a tougher export climate.

[Source: China.cn](http://en.china.cn/content/d285857%2Cb25843%2C1912_6576.html) (Link no longer active)

### Most of the world's top companies invest in China

Almost 480 of Fortune 500 companies have invested in China during the past 30 years, Du Ying, deputy minister in charge of the National Development and Reform Commission said recently.

From 1978 to 2007, China's total use of foreign investment exceeded US$760 billion, the largest amount among developing countries and the second largest worldwide, said Du at a national economic conference.

In 2007 alone, China's foreign direct investment reached US$83.5 billion and outbound investment stood at US$18.7 billion, both soaring from less than US$20 million in 1978 when the country initiated its policy of reform and opening up to the outside world.

Meanwhile, China's foreign trade has also experienced a rapid growth, from US$20.6 billion in 1978 to US$2.17 trillion last year.

"By using markets and resources from home and abroad, China has vastly improved its international competitiveness," Du said.

[Source: People's Daily Online](http://english.people.com.cn/90001/90776/90884/6404579.html) ([see archive](Most_of_worlds_top_companies_invest_in_China.pdf))

## Other

### China to regulate telecom and postal fee charges

China's National Development and Reform Commission (NDRC) has launched a nationwide campaign to reduce illegal telecommunications and postal fee charges.

A nationwide survey, which will last until 30th August, will cover fee charges of all businesses or agents engaged in basic telecommunications services, value-added services and postal services since 1st January 2007, the NDRC said in a statement.

Inspectors will look for improprieties, such as illegal pricing and excessive fee charges, it said.

Some content service providers in China have been found to overcharge their customers, said the commission.

The NDRC lowered the country's mobile roaming service charges from 1st March under consumer pressure to abolish them entirely.

[Source: Ministry of Commerce of the People's Republic of China](http://english.mofcom.gov.cn/article/newsrelease/counselorsoffice/westernasiaandafricareport/200805/20080505531890.shtml) ([see archive](China_to_regulate_telecom_and_postal_fee_charges.pdf))

### Ban on price hikes at tourist sites

The National Development and Reform Commission (NDRC) recently announced a nationwide campaign to adjust admission prices at major tourism sites.

During the adjustment period, no price increases will be allowed at tourist sites. For those already charging high admission fees, adjustments must be made," the NDRC said on its website.

The campaign, which will last for one year, is a joint effort by eight government departments. They released a joint notice on 9th April to standardise admission fees nationwide.

The move is aimed at promoting the healthy development of tourism, China Daily was told by the National Administration of Tourism.

"Some admission fees at tourist sites are too high," Li Nan, a spokeswoman for the administration, said.

The announcement is partly related to the May Day holiday when a large number of people visit tourist sites, she said.

The cost of a ticket at the Huangshan Mountain resort in Anhui province is 200 yuan (US$29.00) and 220 yuan for the Jiuzhaigou resort in Sichuan province.

The notice ordered price cuts for children, students, retired people and the disabled.

[Source: People's Daily Online](http://english.people.com.cn/90001/90782/92900/6401501.html) ([see archive](Ban_on_price_hikes_at_tourist_sites.pdf))

**This newsletter is for information purposes only.**

Its contents do not constitute legal advice and it should not be regarded as a substitute for detailed advice in individual cases.

Transmission of this information is not intended to create and receipt does not constitute a lawyer-client relationship between Charltons and the user or browser.

Charltons is not responsible for any third party content which can be accessed through the website.

If you do not wish to receive this newsletter please let us know by emailing us at unsubscribe@charltonslaw.com

**Charltons - China News Alerts Newsletter - Issue 239 - 07 May 2008**